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GOVERNMENT OF INDIA

MINISTRY OF LAW

New Delhi, the 26th August, 1949

ORDINANCE No XXI OF 1949

AN

ORDINANCE

*to extend certain laws relating to taxation on income to certain areas administered as parts of Governors' Provinces or as Chief Commissioners' Provinces.*

WHEREAS by Orders under section 200A of the Government of India Act, 1935 (26 Geo. 5, c. 2), provision has been made for the administration of certain areas either as if they formed part of a Governor's Province or as if they were a Chief Commissioner's Province;

AND WHEREAS an emergency has arisen which makes it necessary that certain laws relating to taxation on income should be extended to, and by virtue of such extension, be in force in, the said areas;

Now, THEREFORE, in exercise of the powers conferred by section 42 of the said Act, the Governor-General is pleased to make and promulgate the following Ordinance:—

**1. Short title and commencement.**—(1) This Ordinance may be called the Taxation Laws (Extension to Merged States) Ordinance, 1949.

(2) It shall come into force at once.

**2. Definition.**—In this Ordinance, the expression "merged States" means all the States and parts of States which are administered by virtue of the States' Merger (Governors' Provinces) Order, 1949, as if they formed part of a Governor's Province or administered by virtue of the States' Merger (Chief Commissioners' Provinces) Order, 1949, as if they were a Chief Commissioner's Province.

**3. Extension of taxation laws to merged States.**—(1) The following Acts, namely:—

(i) the Indian Income-tax Act, 1922 (XI of 1922),

(1457)

- (ii) the Government Trading Taxation Act, 1926 (III of 1926),
- (iii) the Business Profits Tax Act, 1947 (XXI of 1947),
- (iv) the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947),
- (v) the Indian Finance Act, 1949 (XIV of 1949),
- (vi) the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949),

and all rules and orders made thereunder which are in force immediately before the commencement of this Ordinance, are hereby extended to, and shall be in force in, all the merged States

(2) The Indian Income-tax Act, 1922, the Business Profits Tax Act 1947, and the Indian Finance Act, 1949, and all rules and orders made thereunder, shall operate as if they had been extended to, and brought into force in, all the merged States on the 1st day of April, 1949.

**4. Interpretation of laws as extended.**—In any Act, rule or order extended by section 3 to the merged States, notwithstanding anything contained in the General Clauses Act, 1897 (X of 1897),—

(a) any reference, by whatever form of words, to the Acceding States or the Indian States shall be construed as not including a reference to any of the merged States;

(b) any reference, by whatever form of words, to British subjects shall be deemed to include a reference to persons who, immediately before the 1st day of August, 1949, were subjects of any of the merged States;

(c) any reference, by whatever form of words, to any Governor's Province shall be construed as including a reference to those merged States which are now administered as if they formed part of that Province; and

(d) any reference, by whatever form of words, to the Provinces generally or to the Chief Commissioners' Provinces generally shall be construed as including a reference to those merged States which are now administered as if they were a Chief Commissioner's Province.

**5. Amendment of Act XI of 1922.**—The amendments specified in the First Schedule shall be made in the Indian Income-tax Act, 1922, and shall be deemed to have been made therein with effect from the 1st day of April, 1949

**6. Amendment of Act XXI of 1947.**—The amendments specified in the Second Schedule shall be made in the Business Profits Tax Act, 1947, and shall be deemed to have been made therein with effect from the 1st day of April, 1949

**7. Repeal of corresponding laws and savings.**—(1) If, immediately before the commencement of this Ordinance, there is in force in any of the merged States any law relating to income-tax, super-tax or business profits tax, that law shall cease to have effect except for the purposes of the levy, assessment and collection of income-tax and super-tax in respect of any period not included in the previous year for the purposes of assessment under the Indian Income-tax Act, 1922, as extended to that State by this Ordinance, or, as the case may be, the levy, assessment and collection of business profits tax for any chargeable accounting period ending on or before the 31st day of March, 1948, and for any purposes connected with such levy, assessment or collection:

Provided that any reference in any such law to an officer, authority, tribunal or Court shall be construed as a reference to the corresponding officer, authority, tribunal or Court appointed or constituted by or under the Indian Income-tax Act, 1922, or, as the case may be, the Business Profits Tax Act, 1947, as extended by this Ordinance to that merged State.

Provided further that if any question arises as to who such corresponding officer, authority, tribunal or Court is, the decision of the Central Government thereon shall be final.

(2) Notwithstanding anything contained in any Order made by the Government of any Province under the Extra-Provincial Jurisdiction Act, 1947 (XLVII of 1947) applying the Indian Income-tax Act, 1922 or the Business Profits Tax Act, 1947 to any of the merged States now administered as part of that Province, and repealing the corresponding enactment, if any, of that merged State in force therein immediately before such application, that enactment shall be deemed to be a law in force in that merged State immediately before the commencement of this Ordinance, and the provisions of sub-section (4) of this section shall apply accordingly in relation to that law; and all references to the Indian Income-tax Act, 1922 and the Business Profits Tax Act, 1947 shall be omitted from and shall be deemed never to have been included in the said Order.

(3) If, immediately before the commencement of this Ordinance, there is in force in any of the merged States any law corresponding to the Government Trading Taxation Act, 1928, the Taxation on Income (Investigation Commission) Act, 1947, or the Payment of Taxes (Transfer of Property) Act, 1949, whether by virtue of an order under the Extra-Provincial Jurisdiction Act, 1947, or by virtue of any other legislative power, such corresponding law is hereby repealed:

Provided that section 6 of the General Clauses Act, 1897, shall apply in relation to such repeal as if the corresponding law had been an enactment and this Ordinance had been a Central Act.

**8. Removal of difficulties.**—If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may by order make such provisions, or give such directions, as appear to it to be necessary for removal of the difficulty.

### THE FIRST SCHEDULE

(See section 5)

#### *Amendments to the Indian Income-tax Act 1922 (XI of 1922)*

1. In section 2,—

(a) to clause (3A), the following provisos shall be added, namely:—

“Provided that, as respects any period included in the previous year for the purpose of making any assessment for the year ending on the 31st day of March, 1950, or for any subsequent year, and as respects any period after the 31st day of March 1949, for any of the purposes of this Act, the merged States shall be deemed to be territories comprised in the Provinces of India

Provided further that, for the purposes of sections 4A and 4B, the merged States shall, as respects any period whether before or after the 31st day of March 1949 be deemed to be territories comprised in British India’.

(b) in clause (7A), after the figures ‘1913’ the words ‘or a company formed and registered under a law in force in any of the merged States’ shall be inserted and

(c) after clause (8), the following clause shall be inserted, namely:—

“(8A) ‘merged States’ means all the States and parts of States which are administered by virtue of the States’ Merger (Governors’ Provinces) Order, 1949, as if they formed part of a Governor’s Province, or administered by virtue of the States’ Merger (Chief Commissioners’ Provinces) Order, 1949, as if they were a Chief Commissioner’s Province;”.

2. In sub-section (1) of section 4, after *Explanation 3* the following *Explanation* shall be inserted, namely:—

“*Explanation 4.*—For the purposes of sub-clause (ii) of clause (b) of sub-section (1), income, profits and gains accruing, or arising, in any of the merged States before the beginning of a previous year and after the 1st day of April, 1938, shall be deemed to be brought into, or received in, British India during such year if and only if, they are brought into, or received in, any part of British India other than that merged State during such year.”

3. In sub-section (1) of section 22, for the words “Provided that” the following shall be substituted, namely:—

“Provided that the notice to be given under this section in respect of the merged States in the year 1949 shall be given on or before the 1st day of October, 1949:

Provided further that ”.

4. After section 60, the following section shall be inserted, namely:—

“60A. *Power to make exemption, etc., in relation to merged States.*—If the Central Government considers it necessary or expedient so to do for avoiding any hardship or anomaly, or removing any difficulty, that may arise as a result of the extension of this Act to the merged States, the Central Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any person or class of persons.”

5. In sub-clause (a) of clause (iv) of sub-section (2) of section 61, after the figures “1938” the words and figures “in British India, or before the 1st day of April, 1949, in any of the merged States” shall be inserted.

6. For sub-section (8) of section 66, the following sub-section shall be substituted, namely:—

“(8) For the purposes of this section, ‘the High Court’ means—

(a) in relation to any Governor’s Province, the High Court of that Province;

(b) in relation to the Chief Commissioners’ Provinces of Delhi Himachal Pradesh and Bilaspur, the High Court of East Punjab;

(c) in relation to the Chief Commissioners’ Provinces of Ajmer-Merwara, Panth Piploda and Rampur, the High Court at Allahabad;

(d) in relation to the Chief Commissioner’s Province of Coorg, the High Court at Madras;

(e) in relation to the Chief Commissioner’s Province of the Andaman and Nicobar Islands the High Court at Calcutta;

(f) in relation to the Chief Commissioner's Province of Kutch, the High Court at Bombay; and

(g) in relation to the Chief Commissioner's Province of Bhopal, the High Court at Nagpur."

## THE SECOND SCHEDULE

(See section 6)

*Amendments to the Business Profits Tax Act, 1947 (XXI of 1947).*

### 1. In section 2,—

(a) to clause (21) the following proviso shall be added, namely:—

"Provided that, as respects any accounting period whether falling wholly within, or partly within and partly without, the year ending on the 31st day of March, 1949, for the purpose of making any assessment under this Act, and as respects any period after the 31st day of March, 1949, for any of the purposes of this Act, the merged States shall be deemed to be territories comprised in the Provinces of India.";

(b) in clause (5), after the figures "1913" the words "or a company formed and registered under a law in force in any of the merged States" shall be inserted; and

(c) after clause (12), the following clause shall be inserted, namely:—

"(12A) 'merged States' means all the States and parts of States which are administered by virtue of the States' Merger (Governors' Provinces) Order, 1949, as if they formed part of a Governor's Province, or administered by virtue of the States' Merger (Chief Commissioners' Provinces) Order, 1949, as if they were a Chief Commissioner's Province."

### 2. After section 23, the following section shall be inserted, namely:—

"23A. *Power to make exemption, etc., in relation to merged States.*—If the Central Government considers it necessary or expedient so to do, for avoiding any hardship or anomaly, or removing any difficulty, that may arise as a result of the extension of this Act to the merged States, the Central Government may, by general or special order, make an exemption, reduction in rate or other modification in respect of business profits tax in favour of any class of profits, or in regard to the whole or any part of the profits of any person or class of persons."

C. RAJAGOPALACHARI,  
Governor-General.

K. V. K. SUNDARAM,  
Secy. to the Govt. of India.

